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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,823	09/14/2005	Phil Kongtcheu		9878
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PHIL KONGTCHEU PFK TECHNOLOGIES 37 CEDAR STREET JERSEY CITY, NJ 07305				
EXAMINER				
CHANDLER, SARA M				
ART UNIT		PAPER NUMBER		
3693				
MAIL DATE		DELIVERY MODE		
11/18/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/518,823

**Applicant(s)**

KONGTCHEU, PHIL

**Examiner**

SARA CHANDLER

**Art Unit**

3693

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/5/08.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 10, 13-15, 22, 58, 97, 115, 121, 122, 145, 152, 178, 238 and 268 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1, 10, 13-15, 22, 58, 97, 115, 121, 122, 145, 152, 178, 238 and 268 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-848)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This Office Action is responsive to the Applicant's arguments regarding the election/restriction (09/14/05) filed on 9/5/08. Please note the lack of unity described below.

Examiner further notes that contact information for an agent/attorney of record is unavailable and the applicant has not provided contact information.

### ***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

1. Claims 1 and 10, drawn to a method of facilitating the formation of a BIC or any financial derivatives contract between one or more buyers and one more sellers.
2. Claims 13-15, drawn to a method for compressing the format of the payout payment function of a derivatives contract on one or more underlyings, for a single or multi-period trading framework, for any notional amount, to facilitate decomposition into one or more BICs.
3. Claim 22, drawn to a method for transforming an initial derivatives contract, on one or more underlyings, for a single or multi-period trading framework, for any notional

amount, into an ultimate portfolio of replicating BICs, for valuation and hedging purposes

4. Claim 58, drawn to a method for providing the price of each BIC within an original BIC-basis of one or more related BICs, where each BIC of said original BIC-basis is considered an element of said BIC-basis, and where each BIC pertains to any number of underlyings, in a single or multi-period trading framework.
5. Claim 97, drawn to a method for pricing a derivatives contract on any number of underlyings, in a single or multi-period trading framework, for any notional amount,.
6. Claim 115, drawn to a method for a first stakeholder in a financial transaction to incorporate credit risk sensitivity in the estimation of the value of a counterparty's liability.
7. Claim 121, drawn to a method for calculating the credit risk limit of a given counterparty.
8. Claim 122, drawn to a method for determining a margin amount due by a stakeholder on a derivatives contract.
9. Claim 145, drawn to a method for incorporating supply and demand sensitivities in BICs premium payment amounts, in units of base currency.
10. Claim 152, drawn to a method for automatically quoting BICs prices in a trading or exchange system.

11. Claim 178, drawn to a method for mediating trading in BICs.
12. Claim 238, drawn to a method for managing risk on a portfolio of financial derivatives contracts.
13. Claim 268, drawn to a method of accounting for derivatives contracts, in compliance with FAS 133 or IAS 39, to reduce volatility in periodic earnings, where said derivatives contracts are used to hedge against fluctuations in the value of a held asset.

The inventions do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Unity of invention exists when there is a technical relationship among the claimed inventions involving one or more of the same or corresponding technical features. Lack of unity may be demonstrated *a priori*, before consideration of the prior art in relation to the claims. Lack of unity *a priori* occurs when there are no technical feature(s) that are common to all the claims. Lack of unity may also be demonstrated *a posteriori*, after consideration of the prior art in relation to the claims. Lack of unity *a posteriori* occurs when the claims have common technical feature(s) however, these features do not represent applicant's contribution over the prior art. **See also MPEP § 1850, II.**

**Determination of "Unity of Invention"; and MPEP § 1893.03(d).**

### **37 CFR 1.499. Unity of invention during the national stage**

If the examiner finds that a national stage application lacks unity of invention under § 1.475, the examiner may in an Office action require that the applicant in the response to that action elect the invention to which the claims shall be

restricted. Such requirement may be made before any action on the merits but may be made at any time before the final action at the discretion of the examiner. MPEP § 1893.03(d).

**Groups 1 - 13** lack unity of invention *a priori* because there are no technical feature(s) that are common to all of the claims.

The inventions listed as **Groups 1 and 2; 1 and 3; 1 and 4; 1 and 5; 1 and 6; 1 and 7; 1 and 8; 1 and 9; 1 and 10; 1 and 11; 1 and 12; and 1 and 13:**

Group 1 comprises technical features such as "identifying agreement terms of said BIC/derivatives contract....." and "validating said BIC/derivatives contract." None of the technical features are common to or shared with the technical features found in Groups 3 – 13.

The inventions listed as **Groups 2 and 3; 2 and 4; 2 and 5; 2 and 6; 2 and 7; 2 and 8; 2 and 9; 2 and 10; 2 and 11; 2 and 12; and 2 and 13:**

Group 2 comprises technical features such as "a. receiving said payout payment function expressed in DCWBSOF format....." and "b. transforming said payout payment function expressed in said DCWBSOF format into DCWOF format....." None of the technical features are common to or shared with the technical features found in Groups 3 – 13.

The inventions listed as **Groups 3 and 4; 3 and 5; 3 and 6; 3 and 7; 3 and 8; 3 and 9; 3 and 10; 3 and 8; 3 and 9; 3 and 10; 3 and 11; 3 and 12; and 3 and 13:**

Group 3 comprises technical features such as "a. receiving a BIC-basis; b. receiving the payout payment function for said derivatives contract; c. receiving prices

for elements of said BIC-basis; and, d. performing an iterative process to return said ultimate portfolio of replicating BICs." None of the technical features are common to or shared with the technical features found in Groups 4 – 13.

The inventions listed as Groups **4 and 5; 4 and 6; 4 and 7; 4 and 8; 4 and 9; 4 and 10; 4 and 11; 4 and 12; and 4 and 13:**

Group 4 comprises technical features such as "a. identifying any subsequent BIC-basis having elements with premium payment amounts derived from the premium payment amounts of said original BIC-basis of one or more related BICs ; and, b. providing the premium payment amounts of each element of said subsequent BIC-basis using a functional formula." None of the technical features are common to or shared with the technical features found in Groups 5 – 13.

The inventions listed as Groups **5 and 6; 5 and 7; 5 and 8; 5 and 9; 5 and 10; 5 and 11; 5 and 12; and 5 and 13:**

Group 5 comprises technical features such as "a. enabling a stakeholder to provide a description of said derivatives contract in a functional format; b. enabling said stakeholder to provide a price for one or more basis instruments ; and, c. providing a price for said derivatives contract responsive to steps a and b." None of the technical features are common to or shared with the technical features found in Groups 6 – 13.

The inventions listed as Groups **6 and 7; 6 and 8; 6 and 9; 6 and 10; 6 and 11; 6 and 12; and 6 and 13:**

Group 6 comprises technical features such as a. creating a credit risk underlying whose value at any given time is equal to the percentage of the liability said counterparty honors at said given time....."and " b. multiplying the value of the liability said of counterparty at said given time by said credit risk underlying to obtain a result known as the value of the credit risk adjusted liability at said given time." None of the technical features are common to or shared with the technical features found in Groups 7 – 13.

The inventions listed as Groups **7 and 8; 7 and 9; 7 and 10; 7 and 11; 7 and 12; and 7 and 13:**

Group 7 comprises technical features such as "calculating the credit risk limit of a given counterparty by setting a maximum responsive to the difference between the value of the counterparty liability not inclusive of credit risk and the value of said liability inclusive of credit risk." None of the technical features are common to or shared with the technical features found in Groups 8 – 13.

The inventions listed as Groups **8 and 9; 8 and 10; 8 and 11; 8 and 12; and 8 and 13:**

Group 8 comprises technical features such as "a. determining a first payment amount by Said stakeholder, where said first payment amount is viewed from the position of said stakeholders counterparty, when said counterparty is anticipating a default by said stakeholder; b. determining a second payment amount by said stakeholder, where said second payment amount is viewed from the position of said stakeholders counterparty when said counterparty is not contemplating a default by said



stakeholder; and, c. calculating said margin responsive to said first payment amount and said second payment amount. " None of the technical features are common to or shared with the technical features found in groups 9-13.

The inventions listed as Groups **9 and 10; 9 and 11; 9 and 12; and 9 and 13:**

Group 9 comprises technical features such as "inputting a scaling density function relating the dependence of the first unit notional premium amount of said BICs to the premium amount for any other notional amount of said BICs.." None of the technical features are common to or shared with the technical features found in groups 10-13.

The inventions listed as Groups **10 and 11; 10 and 12; and 10 and 13:**

Group 10 comprises technical features such as, "automatically quoting BICs prices in a trading or exchange system comprising inputting functions representative of BICs prices responsive to offer and demand." None of the technical features are common to or shared with the technical features found in groups 11-13.

The inventions listed as Groups **11 and 12; and 11 and 13:**

Group 11 comprises technical features such as "establishing a network to facilitate interaction between stakeholders under the supervision of a trading system management authority." None of the technical features are None of the technical features are common to or shared with the technical features found in groups 12-13.

The inventions listed as Groups **12 and 13:**

Group 12 comprises technical features such as "re-allocating inventory responsive to assessing the risk on said portfolio. " None of the technical features are None of the technical features are common to or shared with the technical features found in groups 12-13.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action lack unity of invention for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined** even though the requirement

may be traversed **and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARA CHANDLER whose telephone number is (571)272-1186. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/  
Supervisory Patent Examiner, Art Unit 3693

SMC

